IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.912 OF 2006

Sanjeev Singh Chadha Applicant
versus
State of Maharashtra & others Respondents

Mr.Uday Warunjikar for applicant.
Mr.R.F.Lambe for Union of India respondent no.4.
Mrs.M.H.Mhatre, APP for State.
Mrs.Mohane Nair for respondent no.3.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 6th October 2006

PC :

1. The applicant before me is accused of offences punishable under sections 379 r/w 34 IPC.. The FIR bearing No.22 dated 14th May 2005 is registered at Malbar Hill Police Station, Mumbai.

2. The FIR is registered at the instance of Indian Bank. The allegations are that the applicant had opened an account bearing No.2072 in the name of Companies M/s.Sujan Overseas and Industries, Ashboard Overseas Pvt.Ltd. and M/s.Ask International. The details of accounts

and facilities which have been extended, are set out in the FIR.. The properties which is mortgaged to secure the repayment of the loan are also set out.

3. However, the allegation is that on the relevant date the applicant along with his friend Ashok Acharaya came to the bank and requested that they want photocopies of the documents pertaining to the properties which are mortgaged to the bank for some reasons. The complainant states that the applicant and Acharaya were directed to meet with some employee who is in-charge of loan operations. The said officer is one Raj Shekhar.

4. When the applicant and Acharaya went to see Raj Shekhar, the complaint proceeds to allege that, the applicant and Acharaya were shown the original documents. Said Raj Shekhar received one phone call and when he had gone to receive it, he found that the documents were missing from his table. It is in such circumstances that the complaint was filed and later on investigations commenced and it appears that at one stage they were to be handed over to CBI..

5. It also appears from a perusal of the order passed by this Court that the applicant was charged with commission of offence of cheating and forgery as well.

6. This Court on 4th May 2006 has noted the fact that the parties were trying to put an end to the entire dispute inasmuch as the complainant bank and the applicant were negotiating for over all settlement. They were also contemplating making appropriate applications for compounding of the offence.

7. However, on 4th May 2006 this Court noted a fact that during the course of settlement talks a sum of Rs.53.00 lakh was deposited with Indian Bank. The matter was adjourned. It was placed before me on 14th September 2006. After perusing the earlier orders I recorded the statement of Shri Warunjikar appearing for applicant that out of the balance sum, Rs.43.00 lakh are already remitted to the account of Indian Bank and that amount would be received shortly. As far as further outstanding sum of Rs. Rs.1.01 crores, the statement of Shri Warunjikar was recorded that even this amount would be paid on or before 3rd October 2006.

8. The total dues of Indian Bank was about Rs.2.00 crores. Both, Shri Warunjikar for applicant and Mrs.Nair for Indian Bank states that the entire sum is now received by Indian Bank. Additionally, Mrs.Nair, after taking instructions, makes a statement that Indian Bank is not interested in proceeding with the matter and would have no objection if appropriate orders are passed by this Court in exercise of its inherent powers.

9. Shri Warunjikar in the above facts and circumstances prays for exercise of inherent powers conferred upon this Court under section 482 of Cr.P.C. and prays that proceedings and investigations pursuant to registration of CR No.22 of 2005 at Malbar Hill Police Station, Mumbai be quashed and the entire matter be put to an end amicably.

10. Shri Lambe appearing CBI states that as yet the CBI has not stepped in but there is a letter on record of Joint Commissioner of Police, Mumbai (M.S.) pointing out that investigations be handed over to CBI..

11. In my view, once the bank having lodged a complaint but later on not interested in prosecuting the same and further it having received the entire sums due under the said documents, in the peculiar facts and circumstances of this case, it would be appropriate to quash the investigations and proceedings in the above CR No.22 of 2005. Writ Petition is, therefore, allowed in terms of prayer clause (a). Needless to state that offences of cheating and forgery have been added to the said CR.. This order shall enure to the benefit of the applicant and he shall not be called upon to answer those charges as well. This order is passed in the peculiar facts and circumstances of this case and would not be treated as precedent in any future case. Rule is made absolute in above terms.

12. Mrs.Nair states that the original Title Deeds were never with the bank after the same were stolen. The bank has taken proper indemnities in that behalf from the applicant. However, she states that the bank has no objection in issuing "No Dues Certificate" as also filing appropriate application to withdraw the proceedings under the Securitisation Act and

Recovery of Debts to Banks and Financial Institutions Act, 1993. No Dues Certificate would be handed over within a period of two weeks from today.

13. It is clarified that this order shall apply insofar as CR No.22 of 2005 registered at Malbar Hill Police Station, Mumbai.

14. Criminal Application No.295 of 2006 would not survive in the light of this order. Needless to state that it would be open for the applicant to institute appropriate proceedings insofar as relief claimed in Criminal Application No.295 of 2006.

15. All concerned to act on an ordinary copy of this order duly authenticated by Registry of this Court.

(S.C.DHARMADHIKARI, J.)